



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113
Phone: (505) 346-2525 Fax: (505) 346-2542

FORT WORTH

August 21, 2006

AB-6 (SUB-NO. 428X)

2-22-04-I-0679

Sarah W. Bailiff, Vice President
Senior General Attorney
BNSF Railway
P.O. Box 961039
Fort Worth, Texas 76161-0039

Dear Ms. Bailiff:

Thank you for your August 17, 2006, letter requesting our office concurrence with your determination of "no effect" for threatened and endangered species for the Burlington Northern and Santa Fe Railway Company (BNSF) Abandonment between French, New Mexico and York Canyon, New Mexico. The BNSF Abandonment Project is located in southwest of Raton, New Mexico. Under the Endangered Species Act (Act), as amended, it is the responsibility of the federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with U. S. Fish and Wildlife Service (Service) further. Similarly, it is the responsibility of the action agency or project proponent, not the Service, to make "no effect" determinations. We are no longer providing concurrence with project proponent's "no effect" determinations. We regret not being able to continue this service.

We appreciate your thorough analysis of the project areas and concern for endangered and threatened species and New Mexico's wildlife habitats. In future correspondence regarding this project, please refer to Consultation #2-22-04-I-0679. If you have any questions about the information in this letter, please contact Santiago Gonzales at the letterhead address or at 505-761-4755.

Sincerely,

Adam Zerrenner
Acting Field Supervisor